



# EdenAreaROP

## GOVERNING BOARD MEETING AGENDA

26316 Hesperian Blvd. Hayward, CA 94545 • (510) 293-2971 • [www.edenrop.org](http://www.edenrop.org)

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**Friday, October 7, 2022**  
**5:45 pm**

### GOVERNING BOARD MEMBERS

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Juan Campos, President	San Lorenzo Unified School District
James Aguilar, Vice-President	San Leandro Unified School District
Gabriel Chaparro, Member	Hayward Unified School District
Gary Howard, Member	Castro Valley Unified School District

### MISSION STATEMENT

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The mission of the Eden Area ROP is to build a foundation for students that prepare them academically, technically, and professionally to meet challenging opportunities of the 21st Century with confidence and purpose.



Regular Meeting of the ROP Governing Board  
Date: Friday, October 7, 2022  
Time: 5:45 p.m.

#### **NOTICE - COVID-19 PUBLIC HEALTH EMERGENCY BOARD MEMBERS TO ATTEND VIRTUALLY**

Consistent with Assembly Bill 361, effective October 1, 2021, and the continued state of emergency (COVID-19), the Eden Area ROP Governing Board will continue to hold meetings via teleconferencing until further notice. The public is invited to participate via teleconference per the Zoom link below.

##### **Attend Zoom Meeting Instructions:**

- **To observe the meeting by video conference**, please click on [LINK](#) or go <https://zoom.us/j/99397978944?pwd=anVST3pGRDF4MjRjOHJMOUJNR3NyUT09> to at the noticed meeting time.  
Meeting ID: **993 9797 8944**  
Passcode: **EAROP23**

Instructions on how to join a meeting by video conference is available at: <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>.

**To listen to the meeting by phone**, please call at the noticed meeting time **1-669-900-6833**, then enter ID **993 9797 8944**, then press "#". Passcode: **8908035**

Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663-Joining-a-meeting-by-phone>.

##### **Public Comment Instructions:**

- **To comment by video conference**, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on the eligible Agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" is available at: <https://support.zoom.us/hc/en-us/articles/205566129-Raise-Hand-In-Webinar>.
- **To comment by phone**, you will be prompted to "Raise Your Hand" by pressing "\*9" to request to speak when Public Comment is being taken on the eligible Agenda Item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663-Joining-a-meeting-by-phone>.

#### **AGENDA**

Welcome to the Eden Area Regional Occupational Program Governing Board Meeting. The purpose of the meeting is to consider matters of policy and business necessary for the operation of the Regional Occupational Program.

Any member of the audience may speak on any agenda item by following this process, or upon recognition by the President by identifying him/herself and his/her organization affiliation prior to any action taken by the Governing Board. Such presentations may be limited. If there is a desire to address the Governing Board on a matter relating to the Eden Area ROP that does not appear on the agenda, this may be done during the "Public Comment" section.

State law prohibits the ROP Governing Board from taking any action on or discussing items that are not on the posted agenda except to A) briefly respond to statements made or questions posed by the public in attendance; B) ask questions for clarification; C) provide a reference to a staff member or other resource for factual information in response to the inquiry; or D) ask a staff member to report back on the matter at the next meeting and/or place it on a future agenda. (Government Code Section 54954.2 (a))

This meeting is being recorded. These recordings are maintained by the Eden Area ROP for 30 days and are available for review to the public upon request.

**I. Call to Order**

**II. Roll Call**

**III. Pledge of Allegiance**

**IV. Mission Statement**

**V. Approval of Agenda**

**VI. Public Comment for Agenda items and matters that are related to the Eden Area ROP**

(According to the Brown Act, the Board may not comment or take action on items not on the agenda.)

The Board respects and encourages the public to comment on matters on the Board agenda and within the Board's jurisdiction. The Board fully supports civil discourse and requests that everyone respect each other and their point of view.

**Public Comment Instructions:**

- When it is time for the speakers to address the Board, your name will be called and you will then be unmuted and allowed to make public comments.
- Speakers should rename their Zoom profile names to their real names to expedite this process.
- After the comment, the microphone for the speaker's Zoom profile will be muted.

With Board consensus, the President may increase or decrease the time allowed. This meeting is being recorded to prepare the official minutes.

**VII. Student of the Month**

- A. Presentation of ROP Student of the Month Awards (page 4)

**VIII. Consent Calendar**

Action by the Eden Area ROP Governing Board of the Eden Area Regional Occupational Program means that all items listed under the Consent Calendar are adopted by one single motion, unless a member of the Governing Board, the Superintendent, or a member of the public requests that any such item be removed from the Consent Calendar and voted upon separately.

- A. Request the Governing Board to approve the Minutes of the Regular Governing Board Meeting of September 1, 2022 (pages 5-10)
- B. Request the Governing Board to approve the Bill Warrants (pages 11-18)
- C. Request the Governing Board to approve the Personnel Action Items (pages 19-20)
- D. Request the Governing Board to approve the Quarterly Report on Williams Act Complaints and Resolutions (pages 21-22)
- E. Request the Governing Board to approve the Adoption of Resolution 6-22/23: Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom Dated March 4, 2020, and Authorizing Remote Teleconference Meetings for the Period October 7, 2022 through November 6, 2022 (pages 23-26)
- F. Request the Governing Board to approve the Classification and Destruction of Records (page 27)

- G. Request the Governing Board to approve the Agreement with Eide Bailly for GASB 87 Lease Implementation Consulting Services for the 2022-2023 School Year (pages 28-32)
- H. Request the Governing Board to approve the MOU with the Associated Builders and Contractors of Northern California (ABC NorCal) for the 2022-2023 School Year (pages 33-35)

**IX. Information Items**

- A. ROP Pathway Review-Education (pages 36-37)
- B. ROP Pathway Review-Information Support and Services (pages 38-39)
- C. Back to School Night (page 40)
- D. Principals' Breakfast (page 41)
- E. Eden Area ROP Core Values Draft (pages 42-43)
- F. Reclassification Request Procedures and Policy Proposal (pages 44-47)

**X. Action Items**

- A. Request the Governing Board to approve the Second Reading and Adoption of Governing Board Policy, Administrative Regulations and Exhibits (pages 48-91)
- B. Request the Governing Board to approve the Administrator Performance Evaluation Pilot for the 2022-2023 School Year (pages 92-98)
- C. Request the Governing Board to approve the Agreement with Bonnie Wills for Restorative Practices Services and Training for the 2022-2023 School Year (pages 99-104)

**XI. Superintendent's Report**

**XII. Governing Board Reports**

**XIII. Recess to Closed Session**

- A. Conference with Legal Counsel – Anticipated Litigation (Pursuant Government Code Section 54956.9)

**XIV. Reconvene to Open Session and Report Action Taken in Closed Session**

- A. Conference with Legal Counsel – Anticipated Litigation (Pursuant Government Code Section 54956.9)

**XV. Adjournment**



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Manuschka Michaud, Principal  
**SUBJECT:** Presentation of ROP Student of the Month Awards

## **BACKGROUND**

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The Eden Area ROP has developed a student recognition program to acknowledge outstanding efforts and achievements of our students.

## **CURRENT SITUATION**

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The student recognition program has proven to be a successful, motivational tool in the classroom, among the staff and the students of the Eden Area ROP.

The following students were selected as ROP students of the month for October:

<b>STUDENT NAME</b>	<b>HIGH SCHOOL</b>	<b>ROP PROGRAM</b>	<b>INSTRUCTOR</b>
Elijah Miguel Canonigo	Mt. Eden	Cybersecurity I P	Doan
Pahola Mejia	Tennyson	Careers in Education II P	Emery
Aashita Gupta	Mt. Eden	Entrepreneurship I P	Rosas

## **RECOMMENDATION**

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Information only

# CONSENT CALENDAR

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## CONSENT CALENDAR



## Minutes of the Regular Meeting of the ROP Governing Board September 1, 2022

### I. Call to Order

Juan Campos, Board President, called the meeting to order at 5:47 p.m. on Thursday, September 1, 2022. Due to COVID-19 all Board members and attendees attended the meeting virtually via Zoom.

### II. Roll Call

#### Eden Area ROP Governing Board Members Present:

Juan Campos, President	San Lorenzo USD
Gary Howard, Member	Castro Valley USD
Gabriel Chaparro, Member	Hayward USD

#### Eden Area ROP Governing Board Members Absent:

James Aguilar, Vice-President	San Leandro USD
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#### Eden Area ROP Superintendent/Clerk of the Board Present:

Blaine Torpey

#### Eden Area ROP Administrators Present:

Linda Granger	Chief Operating Officer
Mercedes Henderson	Human Resources Administrator
Craig Lang	Director of Adult Programs
Brigitte Luna	Director of Educational Services
Manuschka Michaud	Principal
Anthony Oum	Fiscal Services Administrator

#### Eden Area ROP Staff Present:

Gabriela Juarez	Executive Assistant
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### III. Pledge of Allegiance

Anthony Oum led the Pledge of Allegiance.

### IV. Mission Statement

Manuschka Michaud read the Eden Area ROP mission statement.

### V. Approval of Agenda

Trustee Gary Howard requested to pull agenda item 7 D (Superintendent's Goals for the 2022-2023 School Year) from the consent calendar to be considered separately. Trustee Gabriel Chaparro moved to approve the revised agenda and Trustee Gary Howard, seconded the motion. By the following vote the agenda was approved as amended.

AYES:	3 (Campos, Chaparro, Howard)
NOES:	0
ABSTAIN:	0
ABSENT:	1 (Aguilar)

**VI. Public Comment for Agenda items and matters that are related to the Eden Area ROP**

None

**VII. Consent Calendar**

Trustee Gary Howard moved to approve the consent calendar items with the exception of item D that was pulled for discussion and moved to be approved as separate item under consent:

- A. Minutes of the Regular Governing Board Meeting of August 4, 2022
- B. Bill Warrants
- C. Personnel Action Items
- D. Superintendent's Goals for the 2022-2023 School Year
- E. Agreement with the Alameda County Office of Education (ACOE), in Collaboration with School Services of California Inc. (SSC), for Fiscal Related Matters for the 2022-2023 School Year
- F. Agreement with the Fresno County Office of Education (FCOE) for Direct Support Professional Training for the 2022-2023 School Year

Trustee Gabriel Chaparro seconded the motion.

AYES: 3 (Campos, Chaparro, Howard)  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 (Aguilar)

**D. Superintendent's Goals for the 2022-2023 School Year**

Trustee Gary Howard requested to pull the Superintendent's goals for the 2022-2023 school year to be discussed separately. Blaine Torpey, Superintendent, reviewed the four categories of his goals that were jointly developed with the Board to be achieved over a 2-year period. He had four overarching goals and several items within each of those goals to help accomplish them.

Goal 1: Reinforce EAROP organizational infrastructure and communication.

Goal 2: Maintain and refine high quality CTE programming.

Goal 3: Enhance systems to support the success of all students.

Goal 4: Fiscal and resource management, leadership and innovation.

Upon review of and a motion by Trustee Gary Howard and a second by Trustee Gabriel Chaparro, the Governing Board approved the Superintendent's goals for the 2022-2023 school year.

AYES: 3 (Campos, Chaparro, Howard)  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 (Aguilar)



## VIII. Information Items

### A. Opening of School for the 2022-2023 School Year

Manuschka Michaud, Principal, reported on the opening of school. Ms. Michaud shared that 643 students are enrolled at the Center. She compared the 4 previous school years enrollment numbers which were 567, 749, 746 and 691, respectively.

Ms. Michaud discussed that although declining enrollment is an issue in some districts, the enrollment at Eden Area ROP continues to increase. Eden Area ROP has 145 returning students which is greater than any of the previous school years. The methods being used to increase enrollment at the Center included a focus on building school culture, restorative practices, and trauma informed practices last year.

Ms. Michaud reported information about the Center's COVID-19 testing site located in the We Care Clinic. She noted that testing is available to Eden Area ROP students, staff, and families. To-date there haven't been any positive cases, however, the clinic is prepared to test in large numbers if necessary.

She concluded her report by highlighting that San Jose Charters has been providing bussing services for the last 2 school years, however, we are going through a bidding process. San Jose Charters has provided excellent service. They will continue to bus students from their resident high schools through Thanksgiving break.

### B. Eden Area ROP Service Awards

Blaine Torpey, Superintendent, highlighted the employees that were recognized and honored for their commitment and service to the Eden Area ROP. He shared that annually service awards are presented to staff for their years of experience and dedication to the organization. Staff was recognized at the professional development meeting held on August 8, 2022. Service awards were given to Todd Daugherty (5 years), Kent Doan (5 years), Mikel Jackson (5 years), Anissa Barrot (10 years), Bill Deslaurier (10 years), Erika Emery (15 years), Dale Garrison (15 years), Barbara Juarez (15 years), Cheryl Gixti (20 years) and Michelle Stephens (20 years).

### C. First Reading of Governing Board Policy, Administrative Regulations and Exhibits

Blaine Torpey, Superintendent, shared that the Eden Area ROP has contracts with California School Boards Association (CSBA) to receive regular updates and suggested policy language for any additions, changes, or modifications to educational code that impacts policy. Staff has reviewed these updates and brought relevant changes to the board for their consideration.

Superintendent Torpey presented to the Governing Board the first reading of the following board policy, administrative regulations, and exhibits:

NUMBER	TYPE	TITLE	STATUS
1113	E(1)	District and School Web Sites	Revise
1312.4	AR	Williams Uniform Complaint Procedures	Revise
1312.4	E(2)	Williams Uniform Complaint Procedures	New
3523	BP	Electronic Signatures	New
3523	AR	Electronic Signatures	New
4112.2	AR	Certification	Revise
4161.8 4261.8 4361.8	AR	Family Care and Medical Leave	Revise

The Governing Board agreed with the revisions of board policy, administrative regulations, and exhibits.

**IX. Action Items**

**A. Request the Governing Board to approve Fiscal Year 2021-2022 Unaudited Actuals Income and Expenditure Report**

Upon review of and a motion by Trustee Gary Howard and a second by Trustee Gabriel Chaparro the Governing Board approved Fiscal Year 2021-2022 Unaudited Actuals Income and Expenditure Report.

AYES: 3 (Campos, Chaparro, Howard)  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 (Aguilar)

**B. Request the Governing Board to approve the Revised Calendar of Governing Board Meetings for the 2022-2023 School Year**

Upon review of and a motion by Trustee Gary Howard and a second by Trustee Gabriel Chaparro the Governing Board approved the revised calendar of Governing Board meetings for the 2022-2023 school year.

AYES: 3 (Campos, Chaparro, Howard)  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 (Aguilar)

**C. Request the Governing Board to approve the Adoption of Resolution 5-22/23: Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom Dated March 4, 2020, and Authorizing Remote Teleconference Meetings for the Period September 4, 2022 through October 4, 2022**

Upon review of and a motion by Trustee Gabriel Chaparro and a second by Trustee Gary Howard the Governing Board approved the adoption of Resolution 5-22/23: Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom Dated March 4, 2020, and Authorizing Remote Teleconference Meetings for the Period September 4, 2022 through October 4, 2022.

AYES: 3 (Campos, Chaparro, Howard)  
NOES: 0  
ABSTAIN: 0  
ABSENT: 1 (Aguilar)

**X. Superintendent's Report**

Superintendent Blaine Torpey started his report by expanding on an earlier report about the opening of school. He wanted to highlight the incredible logistical challenges that staff navigated at the start of the school year. With different start times, different starting days, and different schedules for the opening of school, new students were coming almost every day for two weeks and staff welcomed and embraced the students and were very responsive. Demand is strong evidence that Eden Area ROP is meeting the needs of students. He shared that he is very proud of the organization.

He continued his report by sharing that EAROP Center students have started our hands-on programming. Students are participating in First Responder drills, framing structures and mastering safety skills, to name a few.

Superintendent Torpey shared with the Governing Board a quote from a second year ROP student. "The teacher is amazing. I am learning so much. I feel like a leader this year. I am going outside my comfort zone and doing things I didn't think I could do... I want to compete in SkillsUSA this year." This is just one small example of what a powerful impact this organization has.

He highlighted that as an organization we have continued the equity work with authenticity and sincerity. This level of engagement reveals that it is hard work to shift institutional practice. It is critical to do so for the benefit of our students, our staff and the communities we work with. He exclaimed that he is proud of the EAROP team's identifying equity as an important core value for the ROP to hold on to.

Superintendent Torpey has been meeting with our partner districts' staff and leadership. He noted that the welcome has been warm and supportive.

Eden Area ROP staff is currently opening the application process for both another round of CTEIG and Strong Workforce Program Grants.

He was excited to share that initial planning meetings have begun regarding Food Security, Sustainability and Culinary Career Pathways with the City of Hayward and some of our HPN partners.

Superintendent Torpey informed the Board that the Eden Area ROP to date has had almost no COVID-19 related issues. Mitigation strategies that have been implemented have been successful.

Superintendent Torpey concluded his report by providing an achievement under each of his four goals.

**Goal 1: Reinforce EAROP Organizational Infrastructure and Communication**

- Strategic Partnerships: New CTEIG and SWP Grant rounds, exploration meetings with City of Hayward

**Goal 2: Maintain and Refine High Quality CTE Programming**

- High impact professional development for differentiated instructional strategies
- Opening of school, Business Person of the Year preparation, and review/update of articulation agreements

**Goal 3: Enhance Systems to Support the Success of All Students**

- Equity focused professional development, Race Work: follow up, staff support, planning for seminars throughout the year

**Goal 4: Fiscal and Resource Management, Leadership, and Innovation**

- Preliminary meetings with City of Hayward, Chabot, HPN partners for Food Security Pathway development

- Participating in CTE JPA Coalition, ACSA, ACOE Superintendent Council (advocated to State representatives for high school graduation requirement flexibility to benefit students)

**XI. Governing Board Reports**

Trustee Gabriel Chaparro, Hayward USD representative, reported that school has started for Hayward USD.

Trustee Gary Howard, Castro Valley USD representative, also reported that school has started. He also shared that enrollment across the district has increased compared to last school year. He noted that Castro Valley Rotary and Castro Valley/Eden Area Chamber of Commerce will be touring the Eden Area ROP Center.

Trustee Juan Campos, San Lorenzo USD representative, shared that San Lorenzo USD has also started school. He shared the good news that all districts will be receiving more funding than originally anticipated.

**XII. Recess to Closed Session**

The meeting was called into closed session at 6:20 p.m.

**A. Conference with Legal Counsel – Anticipated Litigation (Pursuant Government Code Section 54956.9)**

**XIII. Reconvene to Open Session and Report any Action taken in Closed Session**

The meeting resumed to open session at 6:38 p.m.

**A. Conference with Legal Counsel – Anticipated Litigation (Pursuant Government Code Section 54956.9)**

Board President, Juan Campos, announced that no action was taken.

**XIV. Adjournment**

The Governing Board meeting was adjourned in memory of:

- John Lane, retired Eden Area ROP Instructional Support Specialist
- Odis Huff, Jr, spouse of retired Director of Off-Site Programs, Karen Huff

The meeting adjourned at 6:39 p.m.

Approved by the Eden Area ROP Governing Board \_\_\_\_\_.

\_\_\_\_\_  
Blaine Torpey, Superintendent/Clerk to the Eden Area ROP Governing Board



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Sabrina Ubhoff, Accounting Technician  
**SUBJECT:** Request the Governing Board to approve the Bill Warrants

## **CURRENT SITUATION**

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The bill warrants submitted for approval are for the period of August 15, 2022 through September 13, 2022 and include test warrant numbers and voided warrants.

## **CONSENT CALENDAR**

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Mercedes Henderson, Human Resources Administrator  
**SUBJECT:** Request the Governing Board to approve the Personnel Action Items

## **CURRENT SITUATION**

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The attached listing of personnel action items are the Eden Area ROP Superintendent's recommendations for approval.

## **CONSENT CALENDAR**

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Request the Governing Board to approve the Quarterly Report on Williams Act Complaints and Resolutions

## **BACKGROUND**

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Education Code 35186 (d) requires the following:

A school district shall report summarized data on the nature and resolution of all complaints concerning deficiencies related to instructional materials, emergency or urgent facilities conditions and teacher vacancy or misassignment on a quarterly basis to the county superintendent of schools and the Governing Board of the school district. The summaries shall be publicly reported at a regularly scheduled meeting of the Governing Board of the school district. The report shall include the number of complaints with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

## **CURRENT SITUATION**

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Attached is a report for the complaints and resolutions through October 1, 2022 as specified by Education Code 35186 (d).

## **CONSENT CALENDAR**

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## QUARTERLY REPORT ON WILLIAMS ACT COMPLAINTS

[Education Code 35186 (d)]

Report through: October 1, 2022

District: Eden Area Regional Occupational Program  
Person completing this form: Gabriela Juarez  
Title: Superintendent's Executive Assistant

Quarterly Report Submission (check one) →  
Date: October 1, 2022

- ☐ January  
☐ April  
☐ July  
☒ October

Date for information to be reported publicly at the Governing Board meeting: October 7, 2022

Please check the box that applies:

- ☒ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints.

General Subject Area	Number of Complaints	Number of Resolved Complaints	Number of Unresolved Complaints
Textbooks and Instructional Materials	0	0	0
Teacher Vacancy or Mis-assignment	0	0	0
Facilities Conditions	0	0	0
TOTALS	0	0	0

Publicly reported at the Governing Board meeting on: October 7, 2022

\_\_\_\_\_  
Blaine Torpey, Superintendent



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Request the Governing Board to approve the Adoption of Resolution 6-22/23: Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom Dated March 4, 2020, and Authorizing Remote Teleconference Meetings for the Period October 7, 2022 through November 3, 2022

## **BACKGROUND**

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On September 16, 2021, AB 361 became law, allowing legislative bodies to meet virtually during a proclaimed state of emergency if any of the following apply:

1. State or local officials have imposed or recommended measures to promote social distancing,
2. The purpose of the meeting is to determine, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or
3. The legislative body has already determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

## **CURRENT SITUATION**

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Public Schools in California are currently operating under mandates to maximize distancing as well as implement other safety measures to minimize the spread of COVID-19. Hosting an in-person meeting at this time would present imminent risks to the health and safety of attendees. Approving Resolution 6-22/23 would enable the Eden Area ROP to hold virtual Governing Board meetings.

## **CONSENT CALENDAR**

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# EdenAreaROP

## RESOLUTION NO. 6-22/23

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Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Newsom Dated March 4, 2020, and Authorizing Remote Teleconference Meetings for the Period October 7, 2022 through November 3, 2022

**WHEREAS**, the Eden Area Regional Occupational Program (Eden Area ROP) is committed to preserving and nurturing public access and participation in meetings of the Governing Board; and

**WHEREAS**, all meetings of the Eden Area ROP's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

**WHEREAS**, the Brown Act, Government Code section 54953(e), as amended by Assembly Bill 361, Chapter 165 of the Statutes of 2021, makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

**WHEREAS**, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the Eden Area ROP's boundaries, caused by natural, technological, or human-caused disasters; and

**WHEREAS**, it is further required that state or local officials have imposed or recommended measures to promote social distancing or that the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in the county, specifically, a State of Emergency has been proclaimed by the Governor on March 4, 2020, based on an outbreak of respiratory illness due to COVID-19; and

**WHEREAS**, the World Health Organization, the United States Centers for Disease Control and Prevention, the State of California including the California Department of Public Health, and the Alameda County Public Health Department have recognized that the country, state, and county face a life-threatening pandemic caused by the COVID-19 virus;

**WHEREAS**, with the continuing presence of COVID-19, opening a physical meeting location to the public to hold in-person Governing Board meetings would present an imminent risk to the health and safety of attendees given that members of the public are not required to be vaccinated to attend Board meetings, and with limited staff members, it is impractical to check and enforce the mask mandate and other indoor COVID-19 health and safety protocols for members of the public; and

**WHEREAS**, the Governing Board does hereby find that the Governor's March 4, 2020, State of Emergency proclamation due to the continuing presence of COVID-19 has caused, and will continue to cause, conditions of peril to the safety of persons within the county that are likely to be beyond the control of services, personnel, equipment, and facilities of the Eden Area ROP, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

**WHEREAS**, as a consequence of the local emergency, the Governing Board does hereby find that the legislative bodies of the Eden Area ROP, including any subsidiary bodies and committees created by action of the Board, shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

**WHEREAS**, to ensure the public has access to the Governing Board meetings on Zoom, the Eden Area ROP has posted and will continue to post the Zoom login information on its website and meeting agendas, and the public has and will continue to have the opportunity to provide live public comments during the Zoom meeting.

**NOW, THEREFORE**, The Governing Board of the Eden Area ROP hereby resolve as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the county, and opening a physical meeting location to the public to hold in-person Governing Board meetings would present an imminent risk to the health and safety of attendees due to the continuing presence of COVID-19.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Superintendent and legislative bodies of the Eden Area ROP are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect October 7, 2022, and shall be effective until the earlier of (i) November 3, 2022, or such time the Governing Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Eden Area ROP may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**PASSED AND ADOPTED** by the Governing Board of the Eden Area ROP on this 7<sup>th</sup> day of October 2022, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Blaine Torpey  
ROP Governing Board Clerk, Eden Area ROP  
Alameda County, State of California

**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Anthony Oum, Fiscal Services Administrator  
**SUBJECT:** Request the Governing Board to approve the Classification and Destruction of Records

## **BACKGROUND**

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Regulation 3580 – District Records, states that “All Class 3 (Disposal) records shall be destroyed during the third school year after the school year in which the records originated... [however] shall not be destroyed until after the third school year following the completion of any legally required audit or the retention period required by any agency other than the State of California, whichever is later.” California Code of Regulation, Title 5, Section 16025 states that Class 3 – Disposal records are “Records basic to an audit... or a business or financial transaction (purchase order, invoices, warrants, ledger sheets, cancelled checks and stubs...), and detail records used in the preparation of any other report.”

## **CURRENT SITUATION**

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The Superintendent hereby classifies the list below as Class 3 – Disposal Records. These records have met the retention period requirements as stated above and are of no further use to the Eden Area ROP.

- Purchase Orders for FY 2010-2011 (3 boxes)
- Purchase Orders for FY 2011-2012 (3 boxes)
- Purchase Orders for FY 2012-2013 (3 boxes)
- Purchase Orders for FY 2013-2014 (3 boxes)
- Purchase Orders for FY 2014-2015 (F – M and N – Z, 2 boxes)
- Purchase Orders for FY 2015-2016 (3 boxes)
- Purchase Orders for FY 2016-2017 (3 boxes)
- Purchase Orders for FY 2017-2018 (4 boxes)
- Purchase Orders for FY 2018-2019 (4 boxes)

## **CONSENT CALENDAR**

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Anthony Oum, Fiscal Services Administrator  
**SUBJECT:** Request the Governing Board to approve the Agreement with Eide Bailly for GASB 87 Lease Implementation Consulting Services for the 2022-2023 School Year

## **BACKGROUND**

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Under GASB 87, effective for fiscal years after 06/15/2021, the Eden Area ROP is subject to new requirements for governmental entities when it comes to lease accounting. GASB 87 changes the financial reporting requirements of governmental entities that enter into contractual relationships that meet the definition of a lease for assets such as real property, vehicles and equipment.

## **CURRENT SITUATION**

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An area that requires to be completed for the Eden Area ROP's annual audit, with the assistance of Eide Bailly per the engagement letter, is to calculate the liability and amortization of Eden Area ROP's real estate and equipment leases.

## **CONSENT CALENDAR**

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August 8, 2022

Anthony Oum  
Eden Area Regional Occupational Program  
26316 Hesperian Blvd  
Hayward, California 94545

This letter outlines the understanding of the terms and objectives of the consulting engagement between Eide Bailly LLP (Eide Bailly) and Eden Area Regional Occupational Program (you).

### **Scope of Engagement**

We will work with you to provide consulting services in connection with implementing GASB 87 Lease for the fiscal year 2021-2022.

Our engagement will be performed under the *Statements on Standards for Consulting Services* issued by the American Institute of Certified Public Accountants (AICPA). We will not provide audit, review, compilation or financial statement preparation services to any historical or prospective financial information or provide attestation services under the AICPA *Statements on Standards for Attestation Engagements* and assume no responsibility for any such information.

You will provide us, as promptly as possible, all requested information and documentation reasonably deemed necessary or desirable by us in connection with the engagement. You represent and warrant that all information and documentation provided or to be provided to us is true, correct and complete, to the best of your knowledge and belief. We are authorized to rely upon such information and documentation without independent investigation or verification.

We may use third party service providers and/or affiliated entities (including Eide Bailly Shared Services Private Limited) (collectively, "service providers") in order to facilitate delivering our services to you. Our use of service providers may require access to client information by the service provider. We will take reasonable precautions to determine that they have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain responsible for the confidentiality of client information accessed by such service provider and any work performed by such service provider.

We agree to retain our work papers for a period of at least eight years from the date of our report.

Eide Bailly, LLP has owners that are not licensed as certified public accountants as permitted under Section 5079 of the California Business Code. It is not anticipated that any of the non-licensee owners will be performing services for Eden Area Regional Occupational Program.

## Timeline

We will begin our procedures upon acceptance of this engagement agreement. We would expect to have our work completed within four weeks of receipt of all required data. This timetable assumes the timely receipt of requested information and the cooperation of the parties involved. If delays are experienced in receiving information, the delivery of our work will be delayed accordingly.

## Fees

Our fees are based on the amount of time required at various levels of responsibility, plus actual out-of-pocket expenses, including administrative charges. Invoices are payable upon presentation. We estimate that our fee for the engagement will be \$4,800. We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate.

The ability to perform and complete our engagement consistent with the estimated fee included above depends upon the quality of your underlying accounting records and the timeliness of your personnel in providing information and responding to our requests. To assist with this process, we will provide you with a Prepared-by-Client (PBC) request that identifies the information we will required to perform our engagement, as well as a planned timeline for the engagement. A failure to provide this information in an accurate and timely manner may result in an increase in our fees and/or a delay in the completion of our engagement.

We may be requested to make certain engagement documentation available to outside parties, including regulators, pursuant to authority provided by law or regulation or applicable professional standards. If requested, access to such engagement documentation will be provided under the supervision of Eide Bailly LLP's personnel. Furthermore, upon request, we may provide copies of selected engagement documentation to the outside party, who may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We will be compensated for any time and expenses, including time and expenses of legal counsel, we may incur in making such engagement documentation available or in conducting or responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings as a result of our Firm's performance of these services. You and your attorney will receive, if lawful, a copy of every subpoena we are asked to respond to on your behalf and will have the ability to control the extent of the discovery process to control the costs you may incur.

Should our relationship terminate before our agreed upon procedures are completed and a report issued, you will be billed for services to the date of termination. All bills are payable upon receipt. If collection action is necessary, expenses and reasonable attorney's fees will be added to the amount due.

Eden Area Regional Occupational Program accepts responsibility for the results of the services being provided and agrees to perform the following functions in connection with this engagement:

- Make all management decisions and perform all management functions.
- Designate a competent individual to oversee the services.
- Evaluate the adequacy and results of the services performed.
- Accept responsibility for the results of the services.
- Establish and maintain internal controls, including monitoring ongoing activities.



Eide Bailly, LLP has owners that are not licensed as certified public accountants as permitted under Section 5079 of the California Business Code. It is not anticipated that any of the non-licensee owners will be performing services for Ede Area Regional Occupational Program.

## **MEDIATION**

Any disagreement, controversy or claim arising out of or related to any aspect of our services or relationship with you (hereafter a "Dispute") shall, as a precondition to litigation in court, first be submitted to mediation. In mediation, the parties attempt to reach an amicable resolution of the Dispute with the aid of an impartial mediator. Mediation shall begin by service of a written demand. The mediator will be selected by mutual agreement. If we cannot agree on a mediator, one shall be designated by the American Arbitration Association ("AAA"). Mediation shall be conducted with the parties in person in San Ramon. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Neither party may commence a lawsuit until the mediator declares an impasse.

## **LIMITED INDEMNITY**

Eide Bailly LLP and its partners, affiliates, officers and employees (collectively "Eide Bailly") shall not be responsible for any misstatements in the information provided to us to complete our engagement that we may fail to detect as a result of misrepresentations or concealment of information by any of your owners, directors, officers or employees. You shall indemnify and hold Eide Bailly harmless from any claims, losses, settlements, judgments, awards, damages and attorneys' fees arising from any such misstatement or concealment of information.

If through no fault of Eide Bailly we are named as a party to a dispute between you and a third party, you shall indemnify and hold Eide Bailly harmless against any losses, damages, settlements, judgments, awards, and the costs of litigation (including attorneys' fees) we incur in connection with the dispute.

Eide Bailly shall not be entitled to indemnification under this agreement unless the services were performed in accordance with professional standards in all material respects.

## **LIMITATION OF LIABILITY**

The exclusive remedy available to you for any alleged loss or damages arising from or related to Eide Bailly's services or relationship with you shall be the right to pursue claims for actual damages that are directly caused by Eide Bailly's breach of this agreement or Eide Bailly's violation of applicable professional standards. In no event shall Eide Bailly's aggregate liability to you exceed two times fees paid under this agreement, nor shall Eide Bailly ever be liable to you for incidental, consequential, punitive or exemplary damages, or attorneys' fees.

## **TIME LIMITATION**

You may not bring any legal proceeding against Eide Bailly unless it is commenced within twenty-four (24) months ("Limitation Period") after the date when we delivered our report, return, or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the engagement. The Limitation Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of a possible Dispute.

## GOVERNING LAW AND VENUE

Any Dispute between us, including any Dispute related to the engagement contemplated by this agreement, shall be governed by Minnesota law. Any unresolved Dispute shall be submitted to a federal or state court located in County of Alameda, California.

## ASSIGNMENTS PROHIBITED

You shall not assign, sell, barter or transfer any legal rights, causes of actions, claims or Disputes you may have against Eide Bailly to any person.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our engagement including our respective responsibilities.

We appreciate the opportunity to be of service to you and look forward to working with you and your staff.

Respectfully,




Xiupin Guillaume  
Partner

\*\*\*\*\*

## RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of Eden Area Regional Occupational Program by:

Name:  \_\_\_\_\_

Title: Fiscal Services Administrator

Date: 10/07/2022



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Craig Lang, Director of Adult Programs  
**SUBJECT:** Request the Governing Board to approve the MOU with the Associated Builders and Contractors of Northern California (ABC NorCal) for the 2022-2023 School Year

## **BACKGROUND**

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Apprenticeship in California dates back to the Shelly-Maloney Apprenticeship Labor Standards Act of 1939. Apprenticeship programs include on-the-job training and related and supplementary classroom instruction. In order for an apprenticeship to exist one of the required partners must be a local education agency (LEA). LEAs may provide both the instructor and the classroom facilities or only serve as the fiscal agent.

## **CURRENT SITUATION**

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The Associated Builders and Contractors of Northern California (ABC NorCal) provides apprenticeship programs throughout the state in electrical, carpentry, plumbing, painting and skilled labor. Our partnership with ABC NorCal has generated benefits for our students by expanding their links to employers and labor representatives, updating curriculum to interface with these programs, and encouraging non-traditional career opportunities for women and minorities.

The MOU is a continuation of the agreement that has been approved in past years, in that the Eden Area ROP will continue to serve as the fiscal agent. This would require us to monitor the hours of service provided by the programs. In return, the Eden Area ROP retains a minimum of twenty (20) percent for administrative costs and pre-apprenticeship opportunities for our students.

## **CONSENT CALENDAR**

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## MEMORANDUM OF UNDERSTANDING

Superintendent: Blaine C. Torpey

26316 Hesperian Blvd., Hayward, CA 94545 | P: (510) 293-2900 | F: (510) 293-8225 | [www.edenrop.org](http://www.edenrop.org)

Eden Area Regional Occupational Program (Eden Area ROP) agrees to become the Local educational Agency (LEA) for the Associated Builders and Contractors, Northern California Chapter (Apprenticeship Committee), from July 1, 2022 to June 30, 2023. Both parties will agree to the following:

1. Eden Area ROP will reimburse the Associated Builders and Contractors for apprenticeship expenses according to the current annual apportionment when the 2022-2023 allocation is distributed. The reimbursement rate for each hour of RSI in fiscal year (2022-2023) is \$8.82
2. The Apprenticeship Committee understands that of the hours allocated, zero hours belong to the Apprenticeship Committee and are transferable. The remaining 50,000 hours are loaned to the Apprenticeship Committee and belong to Eden Area ROP and will return to the ROP at the end of the agreement period.
3. Any reimbursement of unused money from the above allocation will be made effective within forty-five (45) days of the following schedule:  
Forty-five (45) days after documentation is submitted and approved.
4. The Apprenticeship Committee understands that all reimbursement expenses must be preapproved and documented in hard copy.
5. The Apprenticeship Committee understands that any reimbursement can only be used on apprenticeship-related expenses.
6. The Eden Area ROP will reimburse only in accordance with the amount of hours actually generated. Any hours not generated up to the 50,000 hours will not be reimbursed.
7. The Apprenticeship Committee is responsible for any expenses accrued over the actual amount of student hours generated or the allocation stated above. The Apprenticeship committee will be responsible to reimburse Eden Area ROP for the amount of the shortfall.
8. Expenses incurred for this Apprenticeship Committee by Eden Area ROP during a reimbursement period will be deducted from the total reimbursement amount. Expenses are defined as, but not limited to salaries, administrative assistants, mandatory benefits, instructional materials and other related costs.

9. It is understood that Eden Area ROP will retain twenty (20) percent for administration costs.
10. This agreement is for the period mentioned above and is on a year-to-year basis and is automatically renewable as agreed upon by all parties. Should either party wish to rescind the agreement, it can do so by May 1 of the year noted above.
11. The Apprenticeship Committee is responsible for keeping attendance using Eden Area ROP forms and returning them to Eden Area ROP at pre-arranged times throughout the school year.
12. The Apprenticeship Committee understands that Eden Area ROP must be contacted concerning any changes in scheduling, instructors, etc. or any other change that would alter this agreement.
13. The Eden Area ROP will ensure that a representative will attend monthly Unilateral Apprenticeship Committee meetings (UAC) as well as California Apprenticeship Council) meetings at least once per year.
14. The Eden Area ROP will provide other educational support and training to program sponsors as requested such as curriculum review and teacher observations.
15. The Eden Area ROP will monitor RSI hours and complete mandated reports requested by California Community College Chancellors Office (CCCCO).
16. The Apprenticeship Committee operates student apprenticeship programs registered by the Division of Apprenticeship Standards under the supervision of the Eden Area ROP. In accordance with California Labor Code section 3368, the Eden Area ROP shall be considered the employer under Division 4 of the California Labor Code (commencing with Section 3200) of persons receiving this apprenticeship training, unless the persons during the training are being paid a cash wage or salary by a private employer. Further, an apprentice, while attending related and supplemental instruction classes, shall be considered to be in the employ of the apprentice's employer, unless the apprentice is unemployed. The parties acknowledge that the Apprentice Committee shall not be responsible for providing workers compensation coverage to its apprentices under any circumstances.

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Apprenticeship Director

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Date

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Director of Adult Programs, Eden Area ROP

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Date

# INFORMATION ITEMS

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Manuschka Michaud, Principal  
**SUBJECT:** ROP Pathway Review- Education

## **BACKGROUND**

---

The state of California has identified 15 industry sectors. Each sector contains multiple career pathways in which to develop programs of study. It is up to individual school districts and the region's corresponding colleges and businesses to conduct research into the needs of the industry and determine which sectors and careers can best serve the students, industry and community. Pathways available vary by each district.

Formerly, the pathway reviews were presented to the Governing Board under the title "CDE Course Review." The Eden Area ROP has renamed the CDE Course Reviews to Pathway Reviews to reflect the information more accurately being shared with the Board and to align with the current terminology used by the state. Pathways reviews are presented to the Governing Board biennially.

## **CURRENT SITUATION**

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The Education pathway is under the Education, Child Development, and Family Services sector. The Education pathway is designed to prepare students for professional or learning support positions in education, prekindergarten through grade twelve. Students study human development; standards, regulations, and codes; positive guidance and counseling techniques; age-appropriate and grade-appropriate learning strategies; learning theories; and standards-based curriculum and instructional design. Students can apply and practice their knowledge and skills at a variety of elementary and secondary education sites.

The attached pathway review is for the following program(s): Careers in Education IP/IIP.

## **RECOMMENDATION**

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Information only

<b>SCHOOL DISTRICT:</b>		<b>EDEN AREA ROP</b>		<b>LOCATION:</b>		<b>Eden Area ROP</b>											
<b>PATHWAY:</b>		Education				<b>INSTRUCTORS:</b>											
		Dr. Erika Emery															
Course Name		Enrollment as of 21-22 Year to Date		Enrollment as of 20-21 Year to Date		Enrollment as of 19-20 Year to Date											
Careers in Education IP		12		20		32											
Careers in Education IIP		6		5		2											
<b>Comments:</b> <ul style="list-style-type: none"> <li>Required enrollment: Class enrollment maintained to sustain agreed master schedule for onsite and staffing.  <input checked="" type="checkbox"/> YES    <input type="checkbox"/> NO </li> <li>Retention rate (Active Enrollment divided by Year-to-date Enrollment):</li> </ul>																	
<b>Text Book:</b> Working with Young Children						<b>Edition:</b> 9 <sup>th</sup>											
<b>NO.</b>	<b>YES</b>	<b>NO</b>															
1.		X	<b>ENROLLMENT</b> – Course meets current or future labor market news. <table border="1"> <tr> <td><b>CLASS SCHEDULE:</b> AM/PM</td> <td><b>SECTIONS PER YEAR:</b></td> <td><b>MINS PER SECTION:</b></td> <td colspan="2"><b>EXPECTED MINIMUM STUDENTS PER SECTION:</b></td> </tr> <tr> <td>1 (Center)</td> <td>1 (Center)</td> <td>3hrs Center</td> <td colspan="2">25+</td> </tr> </table>					<b>CLASS SCHEDULE:</b> AM/PM	<b>SECTIONS PER YEAR:</b>	<b>MINS PER SECTION:</b>	<b>EXPECTED MINIMUM STUDENTS PER SECTION:</b>		1 (Center)	1 (Center)	3hrs Center	25+	
<b>CLASS SCHEDULE:</b> AM/PM	<b>SECTIONS PER YEAR:</b>	<b>MINS PER SECTION:</b>	<b>EXPECTED MINIMUM STUDENTS PER SECTION:</b>														
1 (Center)	1 (Center)	3hrs Center	25+														
2.	X		<b>AVAILABILITY OF QUALIFIED INSTRUCTOR</b> – Qualified/ Credentialed Instructor teaching course.														
3.	X		<b>LEADERSHIP</b> – Instructional leaders have sufficient time and resources to implement system improvements and work with their counterparts in other programs.														
4.	X		<b>CURRICULUM and INSTRUCTION</b> – Students are provided with a strong experience in and understanding of all aspects of industry.														
5.	X		<b>SCHOOL-TO-CAREER AND CAREER PATHWAY DEVELOPMENT</b> – Course is designed as part of a sequence of courses, career pathways, etc.														
6.	X		<b>ADVISORY COMMITTEE</b> – The course has been reviewed and recommended by a pre-established committee. <input checked="" type="checkbox"/> Yes, instructor was present at advisory meeting and minutes are on file at ROP <input type="checkbox"/> No, instructor was not present at advisory. Program was represented, at a joint industrial, by ROP personnel. Instructor MUST attend next advisory for program to meet compliance.														
7.	X		<b>LABOR MARKET NEEDS</b> – Course meets current or future labor market needs.														
8.	X		<b>WORK BASED LEARNING</b> – Course incorporates work based learning opportunities (i.e. guest speakers, field trips, mock interviews, or student organizations)														
9.	X		<b>COMMUNITY CLASSROOM AND COOPERATIVE VOCATIONAL EDUCATION</b> – Course incorporates community classroom and cooperative vocational education (i.e., job training, internships, or job shadowing )														
10.	X		<b>JOB PLACEMENT/FURTHER EDUCATION OPTIONS</b> – Course has potential for student job placement in entry-level positions or course prepares students for further training opportunities within the designed career pathway.														
11.	X		<b>FACILITIES AND EQUIPMENT ACCOMMODATION</b> <input type="checkbox"/> District will provide a facility which adequately accommodates the program. <input checked="" type="checkbox"/> EAROP will provide a facility which adequately accommodates the program. <input type="checkbox"/> District shares cost of equipment if program is cross utilized.														
<b>OTHER CONSIDERATIONS:</b>																	
<input checked="" type="checkbox"/> A-G Credit for UC				<input type="checkbox"/> State and National Licensing or Certification													
<input checked="" type="checkbox"/> Community College Articulation				<input checked="" type="checkbox"/> Strong Business or Industry Partnership													
<input type="checkbox"/> Dual Enrollment				<input type="checkbox"/> Emerging Technologies -													
<b>COMPLIANCE CATEGORIES</b>																	
<input type="checkbox"/> <b>R – Retain Program:</b> Program meets all criteria.		<input type="checkbox"/> <b>W - Watch Program:</b> All criteria not met. See areas that need to be complied with.		<input checked="" type="checkbox"/> <b>P - Probation:</b> Criteria is not being met. Program in danger of suspension.		<input type="checkbox"/> <b>R – Reduce Program:</b> Downsizing program.											
						<input type="checkbox"/> <b>S/T - Suspend/ Terminate program.</b>											





**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Manuschka Michaud, Principal  
**SUBJECT:** ROP Pathway Review- Information Support and Services

## **BACKGROUND**

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The state of California has identified 15 industry sectors. Each sector contains multiple career pathways in which to develop programs of study. It is up to individual school districts and the region's corresponding colleges and businesses to conduct research into the needs of the industry and determine which sectors and careers can best serve the students, industry and community. Pathways available vary by each district.

Formerly, the pathway reviews were presented to the Governing Board under the title "CDE Course Review." The Eden Area ROP has renamed the CDE Course Reviews to Pathway Reviews to reflect the information more accurately being shared with the Board and to align with the current terminology used by the state. Pathways reviews are presented to the Governing Board biennially.

## **CURRENT SITUATION**

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The Information Support and Services pathway is under the Information and Communication Technologies sector. Students in the Information Support and Services pathway prepare for careers that involve the implementation of computer services and software, support of multimedia products and services, provision of technical assistance, creation of technical documentation, and the administration and management of information and communication systems. Mastery of information and communication technologies is the foundation for all successful business organizations today. Persons with expertise in information and communication technologies support and services are in high demand for a variety of positions in business and industry.

The attached pathway review is for the following program(s): Cybersecurity IP/IIP.

## **RECOMMENDATION**

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Information only

# Criteria for Course Approval and Expansion Annual Review

For Class offerings 2021-2022 School Year

<b>SCHOOL DISTRICT:</b>		<b>EDEN AREA ROP</b>		<b>LOCATION:</b>		<b>Eden Area ROP</b>	
<b>PATHWAY:</b>		Information Support and Services				<b>INSTRUCTORS:</b>	
		Kent Doan					
Course Name		Enrollment as of 21-22 Year to Date		Enrollment as of 20-21 Year to Date		Enrollment as of 19-20 Year to Date	
Cybersecurity IP		20		32		21	
Cybersecurity IIP		7		N/A		N/A	
<b>Comments:</b> <ul style="list-style-type: none"> <li>Required enrollment: Class enrollment maintained to sustain agreed master schedule for onsite and staffing.  <input checked="" type="checkbox"/> YES    <input type="checkbox"/> NO </li> <li>Retention rate (Active Enrollment divided by Year-to-date Enrollment):</li> </ul>							
<b>Textbook:</b> Google IT platform, CISCO Network Academy						<b>Edition:</b> Yearly	
<b>NO.</b>	<b>YES</b>	<b>NO</b>					
1.		X	<b>ENROLLMENT</b> – Course meets current or future labor market news. <b>CLASS SCHEDULE:</b> AM/PM <b>SECTIONS PER YEAR:</b> <b>MINS PER SECTION:</b> <b>EXPECTED MINIMUM STUDENTS PER SECTION:</b>				
			2 (Center)	2 (Center)	3hrs Center	25+	
2.	X		<b>AVAILABILITY OF QUALIFIED INSTRUCTOR</b> – Qualified/ Credentialed Instructor teaching course.				
3.	X		<b>LEADERSHIP</b> – Instructional leaders have sufficient time and resources to implement system improvements and work with their counterparts in other programs.				
4.	X		<b>CURRICULUM and INSTRUCTION</b> – Students are provided with a strong experience in and understanding of all aspects of industry.				
5.	X		<b>SCHOOL-TO-CAREER AND CAREER PATHWAY DEVELOPMENT</b> – Course is designed as part of a sequence of courses, career pathways, etc.				
6.	X		<b>ADVISORY COMMITTEE</b> – The course has been reviewed and recommended by a pre-established committee. <input checked="" type="checkbox"/> Yes, instructor was present at advisory meeting and minutes are on file at ROP <input type="checkbox"/> No, instructor was not present at advisory. Program was represented, at a joint industrial, by ROP personnel. Instructor MUST attend next advisory for program to meet compliance.				
7.	X		<b>LABOR MARKET NEEDS</b> – Course meets current or future labor market needs.				
8.	X		<b>WORK BASED LEARNING</b> – Course incorporates work based learning opportunities (i.e. guest speakers, field trips, mock interviews, or student organizations)				
9.		X	<b>COMMUNITY CLASSROOM AND COOPERATIVE VOCATIONAL EDUCATION</b> – Course incorporates community classroom and cooperative vocational education (i.e., job training, internships, or job shadowing )				
10.	X		<b>JOB PLACEMENT/FURTHER EDUCATION OPTIONS</b> – Course has potential for student job placement in entry-level positions or course prepares students for further training opportunities within the designed career pathway.				
11.	X		<b>FACILITIES AND EQUIPMENT ACCOMMODATION</b> <input type="checkbox"/> District will provide a facility which adequately accommodates the program. <input checked="" type="checkbox"/> EAROP will provide a facility which adequately accommodates the program. <input type="checkbox"/> District shares cost of equipment if program is cross utilized.				
<b>OTHER CONSIDERATIONS:</b>							
<input checked="" type="checkbox"/> A-G Credit for UC				<input type="checkbox"/> State and National Licensing or Certification			
<input checked="" type="checkbox"/> Community College Articulation				<input checked="" type="checkbox"/> Strong Business or Industry Partnership			
<input type="checkbox"/> Dual Enrollment				<input type="checkbox"/> Emerging Technologies -			
<b>COMPLIANCE CATEGORIES</b>							
<input type="checkbox"/> <b>R – Retain Program:</b> Program meets all criteria.		<input checked="" type="checkbox"/> <b>W - Watch Program:</b> All criteria not met. See areas that need to be complied with.		<input type="checkbox"/> <b>P - Probation:</b> Criteria is not being met. Program in danger of suspension.		<input type="checkbox"/> <b>R – Reduce Program:</b> Downsizing program.	
						<input type="checkbox"/> <b>S/T - Suspend/ Terminate program.</b>	



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Manuschka Michaud, Principal  
**SUBJECT:** Back to School Night

## **BACKGROUND**

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The Eden Area ROP holds an annual Back to School Night for parents, family and friends to explore our programs at the Hayward Center campus. Teachers have students demonstrate and explain what they are learning in their program.

## **CURRENT SITUATION**

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Back to School Night was on September 20, 2022.

## **RECOMMENDATION**

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Information only



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**PREPARED BY:** Brigitte Luna, Director of Educational Services  
**SUBJECT:** Principals' Breakfast

## **BACKGROUND**

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It is the goal of the Eden Area ROP to continue to develop and implement Career Technical Education course offerings throughout the four districts we serve. We are working to build capacity through establishing strong pathways that encourage all students to enroll and stay enrolled in a rigorous course of study.

The Eden Area ROP staff work with students, parents, counselors, district, and school site administrators in designing a course of study to meet career, academic and employability standards.

## **CURRENT SITUATION**

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As part of our ongoing efforts to build and maintain strong relationships with our partnering school sites, we hosted the annual Principals' Breakfast on Wednesday, September 28, 2022. Principals from all our 13 high schools were invited to meet in-person to connect, discuss enrollment, review grants/funding, and learn about work-based learning opportunities.

## **RECOMMENDATION**

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Information only



**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Eden Area ROP Core Values Draft

## **BACKGROUND**

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The Eden Area ROP Board Policy 0000: Vision asks us to adopt a long-range vision for our programs and activities, "that focus on the achievement and well-being of all students..." The Eden Area ROP has an excellent succinct and concise Mission Statement that guides our daily work.

Developing a long-range vision is a critical component of developing a strategic plan that iterates action items informed by our vision and guided by our mission. To set the foundation for this work, it is important for the Eden Area ROP to develop and agree upon shared core values. Knowing what our values are as an organization will help us establish and articulate a long-term vision and they will serve an anchor as we follow our mission to achieve our vision. Holding core values will assist in decision making, program planning and evaluating our progress.

The core values should be collaboratively developed, adopted by consensus, and shared with all stakeholders. Since the beginning of the year, Eden Area ROP administrators and staff have participated in activities to develop and then provide input and feedback on the draft core values.

## **CURRENT SITUATION**

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The Eden Area ROP's Core Values development process includes a request for input and feedback from the Governing Board and a final approval at a subsequent Governing Board meeting.

## **RECOMMENDATION**

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Information only

# EdenAreaROP Core Values 2022

## DRAFT

We believe in the **Eden Area ROP**.

**E****quitable:** We believe all students, families and staff should be seen, heard, valued, welcomed, protected, included, respected, loved, and have rights to economic and educational mobility.

**A****ccessible:** We believe that by co-creating a community identity founded in humility, empathy, and deep listening, we will foster belonging and a safe and inclusive environment that works to eradicate the impacts of racism, bias, discrimination, and privilege.

**R****esponsive:** We believe that instruction should be culturally responsive, restorative, trauma-informed, ethical, allow for the application of knowledge and information literacy, and prepare students for a path to self-fulfillment and self-actualization.

**O****utcomes:** We believe that all people should have the opportunity to find a pathway that guides them towards a career, college, service to others, and life-affirming endeavors with confidence and purpose.

**P****rofessional:** We believe excellence is the standard. We will work with integrity, transparency, and clear communication.

**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Reclassification Request Procedures and Policy Proposal

## **BACKGROUND**

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Classified Employees perform their duties based on job descriptions that are aligned with the salary schedule and built into a structure of job families and classifications. There are times when a classified employee requests for a review of their job description, the classification, or their salary. It is important to have a process that is established, aligned with best practices and impartial.

## **CURRENT SITUATION**

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To establish a process for classified employees to request a review of their job description, their classification, or their salary, research was conducted of different school districts and county office of educations' processes. Personnel department experts were consulted as well as Eden Area ROP staff.

The proposed process outlines the steps for the employee, the review process for administrators, the criteria for evaluating the review requests and the parameters for any action.

The reclassification development process includes a request for input and feedback from the Governing Board and a final approval at a subsequent Governing Board meeting.

## **RECOMMENDATION**

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Information only

## **DRAFT RECLASSIFICATION REQUEST PROCEDURES AND POLICY**

### Criteria For Reclassification Requests

When a classified employee requests reclassification for job title, job class, job salary or any other dispute regarding their overall duties or compensation, the criteria to be examined is:

- the job duties
- who assigned the duties
- the duration of assignment
- the level of responsibility
- the level of risk (if a mistake is made)

### Requests for Reclassification

Should a classified employee request a reclassification, the request must be generated by the employee. The burden falls upon the employee to make their case for any change. The following steps will assist in evaluating the request:

1. Submit of request in writing.
2. Employee presents a review of their job description. This should include:
  - a. An accounting for all duties as listed with examples.
  - b. A list of duties not included that should be.
  - c. A list of duties that are included but no longer relevant.
  - d. Any justification for any other proposed changes.
  - e. Any other information that the employee would like to provide to support their request.
3. Immediate supervisor reviews employee's analysis of job duties, actual duties listed, and adds supervisor's analysis.
4. Supervisor conducts job description review.
5. Supervisor conducts audit of partner districts practices, including a comparative salary analysis to the extent possible.
6. A time study (blocks of time where the employee tracks the time spent on different tasks).
7. The Human Resources Administrator will collect the data and information.



8. The information will be shared with a panel composed of the Superintendent, the Human Resources Administrator, and an external human resources specialist.
9. The panel will make a non-binding recommendation to the Governing Board.
10. The Governing Boards' decision will be final.

### Approval of Reclassification

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Reclassification can happen for the reasons below:

1. Significant new job duties permanently added by supervisor.
  - a. Requires additional skills, greater responsibility, decision-making, hazardous functions and/or physical requirements.
2. Significant new or increased responsibilities (other than increased workload) have been permanently added by supervisor.
3. The position is improperly placed on the salary schedule in relation to a similar class or position.
4. An extraordinary need for a change has been identified such as a shortage of applications, excessive turnover, unique skills, or change in market value.

For consideration:

Frequency and time-period in which duties outside job description occurred.  
Ensure that the duties have not been assumed by employee without supervisor's approval.

### Denial of Reclassification

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Reclassification should not happen for the following reasons:

1. Workload increases.
2. Seniority or length of service shall not be a basis for reclassification.

### Outcomes

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Potential Outcomes:

1. Change in job description

2. Job title changes
3. Creation of a new classification
4. Out of class compensation
5. No change

The internal consistency and integrity of the salary schedule must not be disrupted by any of these recommendations. There shall be no retroactive reclassification or salary adjustments.

# ACTION ITEMS

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Request the Governing Board to approve the Second Reading and Adoption of Governing Board Policy, Administrative Regulations, and Exhibits

## BACKGROUND

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By law, districts are mandated to adopt policies and administrative regulations to help ensure that districts are legally compliant. New laws are passed by the legislature and congress every year and our policies can quickly become out-of-date

The Eden Area ROP's policy development process includes a first reading at a public Governing Board meeting and a subsequent second reading and adoption for Board approval at a public Governing Board meeting.

## CURRENT SITUATION

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The board policies, administrative regulations, and exhibits listed below have been updated based on the feedback and discussion at the September 1, 2022 Governing Board meeting.

What follows is the second reading of updated board policy, administrative regulations, and exhibits to reflect current law and regulations.

NUMBER	TYPE	TITLE	STATUS
1113	E(1)	District and School Web Sites	Revise
1312.4	AR	Williams Uniform Complaint Procedures	Revise
1312.4	E(2)	Williams Uniform Complaint Procedures	New
3523	BP	Electronic Signatures	New
3523	AR	Electronic Signatures	New
4112.2	AR	Certification	Revise
4161.8 4261.8 4361.8	AR	Family Care and Medical Leave	Revise

## RECOMMENDATION

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It is recommended that the Governing Board approve the second reading and adoption of Governing Board policy, administrative regulations, and exhibits.

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**MATERIALS REQUIRED TO BE POSTED ON DISTRICT WEB SITE**

**Materials to Prominently Display**

The district herein after referred to as the Eden Area Regional Occupational Program (Eden Area ROP) unless otherwise noted or when referring to any of our member districts.

The following must be posted in a prominent location on the Eden Area ROP's web site, such as on the home page when required by law:

1. A direct link to the current board agenda containing the time and location of the meeting and a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, or a link to the Eden Area ROP's agenda management platform where the current agenda shall be the first available (Government Code 54954.2, 54956). Post at least 72 hours before a regular board meeting or 24 hours before a special meeting. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.
2. The Eden Area ROP's policy on student suicide prevention (Education Code 234.6). See BP 5141.52 - Suicide Prevention.
3. The Eden Area ROP's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media (Education Code 234.6). See AR 5131.2 - Bullying and AR 5145.3 - Nondiscrimination/Harassment.
4. The Eden Area ROP's policy on preventing and responding to hate violence, if the Eden Area ROP has adopted such a policy (Education Code 234.6). See BP 5145.9 - Hate-Motivated Behavior.
5. The definition of discrimination and harassment based on sex as described in Education Code 230, including the rights set forth in Education Code 221.8 (Education Code 234.6). See AR 5145.3 - Nondiscrimination/Harassment.
6. Information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the name and contact information of the Title IX Coordinator, the rights of students and the public as specified in Education Code 221.8, the responsibilities of the Eden Area ROP under Title IX, web links to information about those rights and responsibilities on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights, a description of how to file a complaint of

noncompliance under Title IX with specified components, and a link to Title IX information posted on the California Department of Education's (CDE) web site (Education Code 221.6, 221.61, 234.6; 34 CFR 106.8). See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment.

7. A link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families (Education Code 234.5, 234.6). See AR 5145.3 - Nondiscrimination/Harassment.
8. Posters published by the California Department of Fair Employment and Housing (DFEH) including, "California Law Prohibits Workplace Discrimination and Harassment," and for districts with five or more employees, "Transgender Rights in the Workplace," "Your Rights and Obligations as a Pregnant Employee," and "Family Care and Medical Leave and Pregnancy Disability Leave" (Government Code 12950). See AR 4030 - Nondiscrimination in Employment and AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

### **Other Postings**

The following materials are also required to be posted on the Eden Area ROP web site. However, there are no specific requirements related to where they are posted on the web site.

1. The Eden Area ROP's nondiscrimination policy and regulation, including the complaint procedure and the compliance coordinator's contact information (34 CFR 100.6, 106.8). See BP 0410 - Nondiscrimination in District Programs and Activities and AR 4030 - Nondiscrimination in Employment.
2. Training materials used to train the Title IX Coordinator, investigator(s), decisionmaker(s), and any person(s) who facilitate an informal resolution process in response to a Title IX sexual harassment complaint (34 CFR 106.45). See AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.
3. Contact information for the district's liaison(s) for homeless students and other persons as required by Education Code 48852.6, and information regarding the educational rights and resources available to persons experiencing homelessness (Education Code 48852.6). See AR 6173 - Education for Homeless Children.
4. The section(s) of the Eden Area ROP's employee code of conduct addressing interactions with students (Education Code 44050). Post these section(s) or a link to them on Eden Area ROP's web site in a manner that is accessible to the public without a password. See BP 4119.21/4219.21/4319.21 - Professional Standards and BP 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions.
5. The Eden Area ROP's integrated pest management plan, whenever the Center chooses to use a pesticide not exempted pursuant to Education Code 17610.9

- (Education Code 17611.5). Post on the Eden Area ROP's web site. See AR 3514.2 Integrated Pest Management.
6. When the California Environmental Quality Act requires an environmental impact report, negative declaration, or mitigated negative declaration, those environmental review documents, public notice of the preparation and availability of such documents within a reasonable period of time prior to certification of the environmental impact report, adoption of a negative declaration, or determination that a proposed subsequent project will have no additional significant effect on the environment, and specified notices when written requests for notices have been filed (Public Resources Code 21082.1, 21092, 21092.2).
  7. Results of the Western Association of Schools and Colleges (WASC) or other accrediting agency's inspection of a school, within 60 days of receiving the results. (This notification could be made in writing to parents/guardians instead of or in addition to posting the results on the Eden Area ROP's web site.) In addition, if a school loses its WASC or other agency's accreditation, the Eden Area ROP shall post on their web sites a notice of the loss of accreditation and potential consequences (Education Code 35178.4). See BP 6190 - Evaluation of the Instructional Program.

**Regulation 1312.4: Williams Uniform Complaint Procedures**

Status: DRAFT

Original Adopted Date: 06/07/2012 | Last Revised Date: 11/04/2021 | Last Reviewed Date: 11/04/2021

**Types of Complaints**

The Eden Area Regional Occupational Program (Eden Area ROP) shall use the procedures described in this administrative regulation only to investigate and resolve the following:

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)
  - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or Eden Area ROP-adopted textbooks or other required instructional materials to use in class.
  - b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
  - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
  - d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: (Education Code 35186; 5 CCR 4682)
  - a. A semester begins and a teacher vacancy exists.
  - b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
  - c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Teacher vacancy means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

*Beginning of the year or semester* means the time period from the first day students attend classes for a year-long course or semester-long course though not later than 20 business days afterwards.

Misassignment means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186; 5 CCR 4600)

3. Complaints regarding the condition of school facilities, including any complaint alleging that: (Education Code 35186; 5 CCR 4683)
  - a. A condition poses an emergency or urgent threat to the health or safety of students or staff.

Emergency or urgent threat means structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including, but not limited to, gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72)
  - b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.



Clean or maintained school restroom means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers. (Education Code 35292.5)

Open restroom means the school has kept all restrooms open during school hours when students are not in classes and has kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when the temporary closing of the restroom is necessary for student safety or to make repairs. (Education Code 35292.5)

## **Forms and Notices**

The Superintendent or designee shall ensure a Williams complaint form is available at the Center. However, complainants need not use the Eden Area ROP's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)

The Superintendent or designee shall ensure that the Eden Area ROP's complaint form specifies the location for filing a complaint and contains a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as desired. (Education Code 35186; 5 CCR 4680)

The Superintendent or designee shall post in each classroom a notice containing the components specified in Education Code 35186. (Education Code 35186)

## **Filing of Complaint**

A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee at the school in which the complaint arises. A complaint about problems beyond the authority of the principal shall be forwarded to the Superintendent or designee in a timely manner, but not to exceed 10 working days. Complaints may be filed anonymously. (Education Code 35186; 5 CCR 4680)

## **Investigation and Response**

The principal or a designee of the Superintendent shall make all reasonable efforts to investigate any problem within the principal's or designee's authority. (Education Code 35186; 5 CCR 4685)

The principal or Superintendent's designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the principal or Superintendent's designee shall send written resolution of the complaint to the mailing address of the complainant as indicated on the complaint within 45 working days of the initial filing of the complaint. If the principal makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of students or staff as described in Item #3a in the section "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the Eden Area ROP response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

## **Reports**

On a quarterly basis, the Superintendent or designee shall report, to the Board at a regularly scheduled public Board meeting and to the County Superintendent of Schools, summarized data on the nature and resolution of all

complaints. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. (Education Code 35186; 5 CCR 4686)

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**Exhibit 1312.4-E(2): Williams Uniform Complaint Procedures**

**Status:** DRAFT

**Original Adopted Date:** Pending

**K-12 COMPLAINT FORM:  
WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? \_\_\_ Yes \_\_\_ No

Contact information: (if response is requested)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: Day: \_\_\_\_\_ Evening: \_\_\_\_\_

E-mail address, if any: \_\_\_\_\_

Date problem was observed: \_\_\_\_\_

Location of the problem that is the subject of this complaint:

School name/address: \_\_\_\_\_

Course title/grade level and teacher name: \_\_\_\_\_

Room number/name of room/location of facility: \_\_\_\_\_

**Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or Eden Area Regional Occupational Program (Eden Area ROP for the appropriate Eden Area ROP complaint procedure.**

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
  - A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or Eden Area ROP-adopted textbooks or other required instructional materials to use in class.
  - A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
  - Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
  - A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

- A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
- A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
- A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the Eden Area ROP .
- A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.
- For a school serving any of grades 6-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom.
- The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

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Please file this complaint at the following location:  
Manuschka Michaud

-----  
(principal or designee)

Eden Area ROP  
26316 Hesperian Blvd.

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(address)

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

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(Signature)

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(Date)

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

**State**

5 CCR 4600-4670

5 CCR 4680-4687

Ed. Code 1240

Ed. Code 17592.72

Ed. Code 234.1

Ed. Code 33126

Ed. Code 35186

Ed. Code 35292.5-35292.6

Ed. Code 48985

Ed. Code 60119

**Description**

Uniform complaint procedures

Williams uniform complaint procedures

[County superintendent of schools, duties](#)

Urgent or emergency repairs; School Facility Emergency Repair Account

Student protections relating to discrimination, harassment, intimidation, and bullying

School accountability report card

Williams uniform complaint procedures

Restrooms; maintenance and cleanliness

Notices to parents in language other than English

Hearing on sufficiency of instructional materials

**Federal**

20 USC 6314

**Description**

Title I schoolwide program

**Management Resources**

Website

**Description**

[CSBA District and County Office of Education Legal Services](#)

Website

[State Allocation Board, Office of Public School Construction](#)

Website

[California Department of Education, Williams Case](#)

Website

[California County Superintendents Educational Services Association](#)

Website

[CSBA](#)

**Cross References**

**Code**

**Description**

1250	<a href="#"><u>Visitors/Outsiders</u></a>
1250	<a href="#"><u>Visitors/Outsiders</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3	<a href="#"><u>Uniform Complaint Procedures</u></a>
1312.3-E PDF(1)	<a href="#"><u>Uniform Complaint Procedures</u></a>
1340	<a href="#"><u>Access To District Records</u></a>
1340	<a href="#"><u>Access To District Records</u></a>
3270	<a href="#"><u>Sale And Disposal Of Books, Equipment And Supplies</u></a>
3270	<a href="#"><u>Sale And Disposal Of Books, Equipment And Supplies</u></a>
3514	<a href="#"><u>Environmental Safety</u></a>
3514.2	<a href="#"><u>Integrated Pest Management</u></a>
4112.2	<a href="#"><u>Certification</u></a>
4112.2	<a href="#"><u>Certification</u></a>
4113	<a href="#"><u>Assignment</u></a>
4113	<a href="#"><u>Assignment</u></a>
4144	<a href="#"><u>Complaints</u></a>
4144	<a href="#"><u>Complaints</u></a>
4244	<a href="#"><u>Complaints</u></a>
4244	<a href="#"><u>Complaints</u></a>
4344	<a href="#"><u>Complaints</u></a>
4344	<a href="#"><u>Complaints</u></a>
6161.1	<a href="#"><u>Selection And Evaluation Of Instructional Materials</u></a>
6161.1	<a href="#"><u>Selection And Evaluation Of Instructional Materials</u></a>
6161.2	<a href="#"><u>Damaged Or Lost Instructional Materials</u></a>
9000	<a href="#"><u>Role Of The Board</u></a>
9012	<a href="#"><u>Board Member Electronic Communications</u></a>
9200	<a href="#"><u>Limits Of Board Member Authority</u></a>
9322	<a href="#"><u>Agenda/Meeting Materials</u></a>

**Policy 3523: Electronic Signatures**

**Status:** DRAFT

**Original Adopted Date:** Pending

The Governing Board believes that the use of electronic records and signatures is a convenient paperless option that can increase efficiency in commercial and administrative transactions, reduce costs, and contribute to environmental sustainability in district operations. The Board authorizes the use of electronic signatures in Eden Area Regional Occupational Programs (Eden Area ROP) operations when authorized by law.

The Superintendent or designee shall ensure that any electronic signature utilized by the Eden Area ROP conforms with criteria described in law and that the level of security is sufficient for the transaction being conducted.  
(Government Code 16.5; 2 CCR 22003, 22005)

The Superintendent or designee shall retain electronic records in accordance with law and regulations, and as specified in BP/AR 3580 - District Records.

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**Regulation 3523: Electronic Signatures**

**Status:** DRAFT

**Original Adopted Date:** Pending

When authorized by law, electronic signatures may be used in the operation of the Eden Area Regional Occupational Program (Eden Area ROP) business and/or administration.

In any business transaction, an electronic signature shall only be used when each party has agreed to conduct the transaction by electronic means. In other Eden Area ROP operations, the Superintendent or designee may require the use of an electronic signature. (Civil Code 1633.5; 15 USC 7001)

A *digital signature* is defined as an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. (Government Code 16.5)

An *electronic signature* consists of an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. (Civil Code 1633.2)

In order for an electronic signature to be used, the electronic signature shall be: (Government Code 16.5; 2 CCR 22002)

1. Unique to the person using it
2. Capable of verification
3. Under the sole control of the person using it
4. Linked to data in such a manner that if the data are changed the electronic signature is invalidated
5. Conform to 2 CCR 22000-22005

Prior to accepting an electronic signature, the Superintendent or designee shall ensure the following: (2 CCR 22005)

1. That the signature is created by acceptable technology pursuant to 2 CCR 22003
2. That the level of security used to identify the signer of the document and to transmit the signature is sufficient for the transaction being conducted
3. That, if a certificate is a required component of the electronic signature, the certificate format used by the signer is sufficient for the security and interoperability needs of the Eden Area ROP.

If a notarized signature is required with respect to an electronic signature, the electronic signature of the notary public together with all of the other information required by law to be included in a notarization shall accompany the electronic signature. (Civil Code 1633.11)

If a statement is required to be signed under penalty of perjury, the electronic signature shall include all of the information to which the declaration pertains together with a declaration under penalty of perjury by the person who submits the electronic signature that the information is true and correct. (Civil Code 1633.11)



**Regulation 4112.2: Certification**

**Status:** DRAFT

**Original Adopted Date:** 05/07/2020

**Verification of Credentials**

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid certification document issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

(cf. 4112.21 - Interns)

(cf. 4112.22 - Staff Teaching English Learners)

(cf. 4112.23 - Special Education Staff)

(cf. 4121 - Temporary/Substitute Personnel)

(cf. 5148 - Child Care and Development)

(cf. 6178 - Career Technical Education)

(cf. 6200 - Adult Education)

The Superintendent or designee shall verify that any person who is employed by the Eden Area Regional Occupational Program (Eden Area ROP) while CTC is processing the application for certification possesses a temporary certificate based on a demonstration of basic skills and completion of a criminal background check. (Education Code 44332, 44332.5, 44332.6)

The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

(cf. 3580 - District Records)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

**Basic Skills Proficiency**

The Eden Area ROP shall not initially hire a person in a position requiring certification, on a permanent, temporary, or substitute basis, unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

A person may demonstrate basic skills proficiency in reading, writing, and mathematics by:

1. Passage of the California Basic Educational Skills Test (CBEST) (Education Code 44252.5)
2. Passage of the California Subject Examinations for Teachers plus Writing Skills Examination
3. Passage of the California State University (CSU) Early Assessment Program or the CSU Placement Examinations (Education Code 44252)
4. Achieving a qualifying score on the Scholastic Aptitude Test or the American College Test (Education Code 44252)
5. Achieving a qualifying score on College Board Advanced Placement Examinations
6. Passage of a basic skills examination from another state
7. Qualifying coursework (Education Code 44252)
8. Qualifying coursework and exams (Education Code 44252)

The Eden Area ROP may hire a certificated employee who has not taken a test of basic skills proficiency if the employee has not yet been afforded the opportunity to take the test, provided that the employee takes the test at the earliest opportunity. The employee may remain employed by the Eden Area ROP pending the receipt of the test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being issued a California preliminary credential by CTC unless the teacher has completed a basic skills proficiency test in another state, passed a basic skills proficiency test developed and administered by the Eden Area ROP, by cooperating districts or by the county office of education (COE), or is otherwise exempted by law. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.2 - Certificate of Proficiency)

(cf. 6162.5 - High School Exit Examination)

### **Short-Term Staff Permit**

The Eden Area ROP may request that CTC issue a short-term staff permit (STSP) to a qualified applicant whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher
2. Inability of the teacher of record to finish the school year due to approved leave or illness
3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved internship program

When requesting issuance of an STSP, the Superintendent or designee shall submit to CTC: (5 CCR 80021)

1. Verification that the Eden Area ROP has conducted a local recruitment for the permit being requested
2. Verification that the Eden Area ROP has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit

(cf. 4131 - Staff Development)

(cf. 4131.1 - Teacher Support and Guidance)

3. Written justification for the permit signed by the Superintendent or designee

The holder of an STSP may be assigned to provide the same service as a holder of a single subject, Career Technical Education (CTE), or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

### **Provisional Internship Permit**

Before requesting that CTC issue a provisional internship permit (PIP), the Eden Area ROP shall conduct a diligent search for a suitable credentialed teacher or intern, including, but not limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. (5 CCR 80021.1)

(cf. 4111/4211/4311 - Recruitment and Selection)

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that CTC issue a PIP to an applicant who possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021.1 for the multiple subject, single subject, or education specialist PIP as appropriate. (5 CCR 80021.1)

### **Teaching Permit for Statutory Leave**

Whenever there is an anticipated need for the Eden Area ROP to temporarily fill the teaching assignment of a teacher of record who will be on sick leave, differential sick leave, industrial accident or illness leave, pregnancy

disability leave, or family care and medical leave under the federal Family and Medical Leave Act or California Family Rights Act, the Superintendent or designee may request that CTC issue a Teaching Permit for Statutory Leave (TPSL) to a qualified individual who will be serving as the interim teacher of record. Prior to submitting an application to CTC, the Eden Area ROP shall provide the applicant with 45 hours of preparation in the content areas listed in 5 CCR 80022. (5 CCR 80022)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

A request for the TPSL shall only be submitted if the Eden Area ROP has made reasonable efforts to hire a substitute with a full teaching credential that matches the setting and/or subject for the statutory leave position and no such candidate is available. (5 CCR 80022)

The Eden Area ROP shall verify to CTC that it will provide the interim teacher: (5 CCR 80022)

1. An orientation to the assignment before or during the first month of service in the statutory leave assignment
2. An average of two hours of mentoring, support, and/or coaching per week through a system of support coordinated and/or provided by a mentor who possesses a valid life or clear credential that would also authorize service in the statutory leave assignment
3. Lesson plans for the first four weeks of the assignment as well as continued assistance in the development of curriculum, lesson planning, and individualized education programs

The holder of the TPSL may serve as the interim teacher of record for up to the full length of the leave(s) during the school year. (5 CCR 80022)

The Superintendent or designee shall maintain documentation on the assignment in accordance with 5 CCR 80022 and annually report data on the use of the TPSL to the County Superintendent of Schools for assignment monitoring pursuant to Education Code 44258.9. (5 CCR 80022)

(cf. 4113 - Assignment)

The Superintendent or designee may annually request renewal of the TPSL, provided that no substitute with a full teaching credential is available for the assignment. The application for each reissuance shall include verification that the interim teacher has completed an additional 45 hours of preparation and the Eden Area ROP is continuing to provide mentoring in accordance with items #2-3 above. (5 CCR 80022)

### **Substitute Teaching Permits**

The Eden Area ROP may employ a person whose credential or permit authorizes substitute teaching services, provided that:

1. A person holding an emergency 30-day substitute teaching permit, STSP, PIP, TPSL, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)
3. A person with an emergency substitute teaching permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person with an emergency designated subjects 30-day substitute teaching permit for career technical education shall teach only in a program of technical, trade, or vocational education and shall not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

Before employing a person with an emergency substitute permit pursuant to item #1 or #4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute

permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the Eden Area ROP's specified employment criteria. (5 CCR 80025, 80025.5)

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**Regulation 4161.8: Family Care And Medical Leave**

**Status:** DRAFT

**Original Adopted Date:** 05/07/2020 | **Last Revised Date:** 06/16/2022 | **Last Reviewed Date:** 06/16/2022

The Eden Area Regional Occupational Program (Eden Area ROP) shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL) when an employee is disabled by a pregnancy, childbirth, or related medical condition. The Eden Area ROP shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the Eden Area ROP discharge, discriminate or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

**Definitions**

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes means an employee who has been employed with the Eden Area ROP for at least 12 months and who has at least 1,250 hours of service with the Eden Area ROP during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child.

However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged

or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

### **Eligibility/Purposes of Leave**

The Eden Area ROP shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, ; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position
4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. The care of a covered servicemember with a serious injury or illness is when the employee is a spouse, child, parent, or next of kin of the covered servicemember

In addition, the Eden Area ROP shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

### **Terms of Leave**

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the

date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the Eden Area ROP.

### **Use/Substitution of Paid Leave**

During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

The Eden Area ROP and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the Eden Area ROP shall limit leave increments to the shortest period of time that the Eden Area ROP's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the Eden Area ROP shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The Eden Area ROP may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The Eden Area ROP agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### **Request for Leave**

The Eden Area ROP shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the Eden Area ROP aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to

be taken. (2 CCR 11091)

The Eden Area ROP shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the Eden Area ROP is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the Eden Area ROP with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the Eden Area ROP with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to Eden Area ROP operations. (Government Code 12945.2; 2 CCR 11050, 11091)

### **Certification of Health Condition**

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the Eden Area ROP's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
  - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the Eden Area ROP to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)



If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from an Eden Area ROP-approved health care provider, at Eden Area ROP expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the Eden Area ROP, again at Eden Area ROP expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

### **Certification for PDL**

The Superintendent or designee shall request that an employee who is requesting PDL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the Eden Area ROP may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

### **Release to Return to Work**

Upon expiration of an employee's PDL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

### **Rights to Reinstatement**

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

The Eden Area ROP may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The Eden Area ROP may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

### **Maintenance of Benefits/Failure to Return from Leave**

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the Eden Area ROP and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the Eden

Area ROP shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the Eden Area ROP for premiums paid during the leave if the employee fails to return to Eden Area ROP employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the Eden Area ROP shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

### **Military Family Leave Resulting from Qualifying Exigencies**

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the Eden Area ROP in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, or spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or , for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and Eden Area ROP agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

The Eden Area ROP shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, son, or daughter or child, unless or as designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military

service or that would do so but for treatment received by the veteran

d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the Eden Area ROP and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Notifications**

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/PDL and FMLA/CFRA and employee's rights and obligations shall be posted in a conspicuous place on Eden Area ROP premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use paid leave, whether the Eden Area ROP will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

f. The employee's potential liability for health insurance premiums paid by the Eden Area ROP during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

6. If the Eden Area ROP requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the Eden Area ROP requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

## **Records**

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

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**Regulation 4261.8: Family Care And Medical Leave**

**Status:** DRAFT

**Original Adopted Date:** 05/07/2020 | **Last Revised Date:** 06/16/2022 | **Last Reviewed Date:** 06/16/2022

The Eden Area Regional Occupational Program (Eden Area ROP) shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL) when an employee is disabled by a pregnancy, childbirth, or related medical condition. The Eden Area ROP shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the Eden Area ROP discharge, discriminate or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

**Definitions**

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes means an employee who has been employed with the Eden Area ROP for at least 12 months and who has at least 1,250 hours of service with the Eden Area ROP during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child.

However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged

or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

### **Eligibility/Purposes of Leave**

The Eden Area ROP shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, ; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position
4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. The care of a covered servicemember with a serious injury or illness is when the employee is a spouse, child, parent, or next of kin of the covered servicemember

In addition, the Eden Area ROP shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

### **Terms of Leave**

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the

date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the Eden Area ROP.

### **Use/Substitution of Paid Leave**

During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

The Eden Area ROP and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the Eden Area ROP shall limit leave increments to the shortest period of time that the Eden Area ROP's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the Eden Area ROP shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The Eden Area ROP may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The Eden Area ROP agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### **Request for Leave**

The Eden Area ROP shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the Eden Area ROP aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to



be taken. (2 CCR 11091)

The Eden Area ROP shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the Eden Area ROP is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the Eden Area ROP with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the Eden Area ROP with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to Eden Area ROP operations. (Government Code 12945.2; 2 CCR 11050, 11091)

### **Certification of Health Condition**

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the Eden Area ROP's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
  - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the Eden Area ROP to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from an Eden Area ROP-approved health care provider, at Eden Area ROP expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the Eden Area ROP, again at Eden Area ROP expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

### **Certification for PDL**

The Superintendent or designee shall request that an employee who is requesting PDL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the Eden Area ROP may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

### **Release to Return to Work**

Upon expiration of an employee's PDL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

### **Rights to Reinstatement**

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

The Eden Area ROP may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The Eden Area ROP may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

### **Maintenance of Benefits/Failure to Return from Leave**

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the Eden Area ROP and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the Eden

Area ROP shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the Eden Area ROP for premiums paid during the leave if the employee fails to return to Eden Area ROP employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the Eden Area ROP shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

### **Military Family Leave Resulting from Qualifying Exigencies**

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the Eden Area ROP in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, or spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or , for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and Eden Area ROP agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

The Eden Area ROP shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, son, or daughter or child, unless or as designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military

service or that would do so but for treatment received by the veteran

d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the Eden Area ROP and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Notifications**

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/PDL and FMLA/CFRA and employee's rights and obligations shall be posted in a conspicuous place on Eden Area ROP premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use paid leave, whether the Eden Area ROP will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

f. The employee's potential liability for health insurance premiums paid by the Eden Area ROP during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

6. If the Eden Area ROP requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the Eden Area ROP requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

## **Records**

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

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**Regulation 4361.8: Family Care And Medical Leave**

**Status:** DRAFT

**Original Adopted Date:** 05/07/2020 | **Last Revised Date:** 06/16/2022 | **Last Reviewed Date:** 06/16/2022

The Eden Area Regional Occupational Program (Eden Area ROP) shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL) when an employee is disabled by a pregnancy, childbirth, or related medical condition. The Eden Area ROP shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the Eden Area ROP discharge, discriminate or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

**Definitions**

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; or a child to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

Eligible employee, for FMLA and CFRA purposes means an employee who has been employed with the Eden Area ROP for at least 12 months and who has at least 1,250 hours of service with the Eden Area ROP during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

Eligible family member means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

Employee disabled by pregnancy means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

Parent means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child.

However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

Serious health condition means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged

or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Spouse means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

### **Eligibility/Purposes of Leave**

The Eden Area ROP shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2, ; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position
4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)
5. The care of a covered servicemember with a serious injury or illness is when the employee is a spouse, child, parent, or next of kin of the covered servicemember

In addition, the Eden Area ROP shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

### **Terms of Leave**

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

This 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the



date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the Eden Area ROP.

### **Use/Substitution of Paid Leave**

During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

The Eden Area ROP and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4261.1 - Personal Illness/Injury Leave)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the Eden Area ROP shall limit leave increments to the shortest period of time that the Eden Area ROP's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the Eden Area ROP shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The Eden Area ROP may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.
2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The Eden Area ROP agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### **Request for Leave**

The Eden Area ROP shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the Eden Area ROP aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to

be taken. (2 CCR 11091)

The Eden Area ROP shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the Eden Area ROP is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the Eden Area ROP with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the Eden Area ROP with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to Eden Area ROP operations. (Government Code 12945.2; 2 CCR 11050, 11091)

### **Certification of Health Condition**

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the Eden Area ROP's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the eligible family member during a period of the treatment or supervision
  - b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the Eden Area ROP to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from an Eden Area ROP-approved health care provider, at Eden Area ROP expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the Eden Area ROP, again at Eden Area ROP expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

### **Certification for PDL**

The Superintendent or designee shall request that an employee who is requesting PDL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the Eden Area ROP may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

### **Release to Return to Work**

Upon expiration of an employee's PDL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

### **Rights to Reinstatement**

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

(cf. 4117.3 - Personnel Reduction)

(cf. 4217.3 - Layoff/Rehire)

The Eden Area ROP may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The Eden Area ROP may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

### **Maintenance of Benefits/Failure to Return from Leave**

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the Eden Area ROP and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the Eden

Area ROP shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the Eden Area ROP for premiums paid during the leave if the employee fails to return to Eden Area ROP employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

(cf. 4154/4254/4354 - Health and Welfare Benefits)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the Eden Area ROP shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

### **Military Family Leave Resulting from Qualifying Exigencies**

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the Eden Area ROP in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, or spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

Covered active duty means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or , for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign country includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and Eden Area ROP agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

During the period of qualified exigency leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

The Eden Area ROP shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Child of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

Parent of a covered servicemember means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

Next of kin means the nearest blood relative to the covered servicemember, other than the spouse, parent, son, or daughter or child, unless or as designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

Outpatient status means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military

service or that would do so but for treatment received by the veteran

d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the Eden Area ROP and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

During the period of military caregiver leave, the Eden Area ROP's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Notifications**

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/PDL and FMLA/CFRA and employee's rights and obligations shall be posted in a conspicuous place on Eden Area ROP premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11050, 11091)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)

4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to use paid leave, whether the Eden Area ROP will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

f. The employee's potential liability for health insurance premiums paid by the Eden Area ROP during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

6. If the Eden Area ROP requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the Eden Area ROP requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

## **Records**

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

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**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Request the Governing Board to approve the Administrator Performance Evaluation Pilot for the 2022-2023 School Year

## **BACKGROUND**

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The purpose of the employee performance evaluation process is to promote communication and provide useful feedback about job performance, to facilitate better working relationships, to provide a historical record of performance, set expectations for future job performance and to contribute to professional development. Evaluations are periodically reviewed and updated, if needed.

## **CURRENT SITUATION**

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In 2019, a comprehensive review and update of employee performance evaluations was conducted. To further refine the Administrator Performance Evaluation for both classified and certificated administrators, Eden Area ROP has developed a new form to use as a pilot for this year's evaluations of Eden Area ROP administrators.

The pilot consists of an evaluation template that is like the tool used to evaluate the Superintendent's performance. The goal is to align the administrative team's work with the overarching goals of the organization while also providing space for administrators to identify, build and reflect on their own leadership goals.

After completing the annual process with the administrative team at the end of the school year, the form will be reviewed, potentially revised, reported on, and potentially proposed for final Board approval.

## **RECOMMENDATION**

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It is recommended that the Governing Board approve the administrator performance evaluation pilot for the 2022-2023 school year.





## ADMINISTRATOR EVALUATION FORM

26316 Hesperian Blvd. Hayward, CA 94545 • (510) 293-2916 • [www.edenrop.org](http://www.edenrop.org)

EMPLOYEE NAME		TITLE	
SUPERVISOR/EVALUATOR		HIRE DATE	LAST EVALUATION DATE
GOAL SETTING DATE	MID-YEAR CHECK IN DATE	EVALUATION CONF. DATE	

The Administrator' evaluation will be based on the goals developed annually by the Superintendent and the Board ([Eden Area ROP Goals and Implementation Plan 2022 2023.docx](#)). The administrator will be tasked with developing their goal based on the enumerated EAROP Goals. For example, how will the administrator Reinforce EAROP Organizational Structure and Communication relevant to their role and their department? Similarly, choose two to four strategies to focus on, per goal, and explain how your work will reflect those strategies. Add evidence to the strategies and the self-reflection that will help you measure your success.

### Goal #1: Reinforce EAROP Organizational Infrastructure and Communication

<b>Administrator's Goal 1:</b>
<b>Strategies to reach goal:</b>
1. Mission Statement Guided Strategic Plan
<b>Administrator's Focus:</b>
2. Develop Systems for Sustained Stakeholder Input

<b>Administrator's Focus:</b>
3. Policy Communication
<b>Administrator's Focus:</b>
4. Program Communication
<b>Administrator's Focus:</b>
5. Strategic Partnerships
<b>Administrator's Focus:</b>
<b>Administrator's Self Reflection:</b>
<b>Evaluator's Comments:</b>

### Goal #2: Maintain and Refine High Quality CTE Programs

<b>Administrator's Goal 2:</b>
<b>Strategies to reach goal:</b>
1. Formalize Self-Assessment to Ensure Programs are Meeting the 12 Essential Elements of High Quality CTE Programs

<b>Administrator's Focus:</b>
2. Industry Partnerships
<b>Administrator's Focus:</b>
3. Instructional Focus
<b>Administrator's Focus:</b>
4. Focus on Student Outcomes
<b>Administrator's Focus:</b>
5. Adult Education
<b>Administrator's Focus:</b>
<b>Administrator's Self Reflection:</b>
<b>Evaluator's Comments:</b>

**Goal #3: Enhance Systems to Support the Success of All Students**

<b>Administrator's Goal 3:</b>
<b>Strategies to reach goal:</b>

1. Become an Anti-Bias and Anti-Racist Organization	<b>Administrator's Focus:</b>
2. Expanding Use of Technology as a Tool for Supporting Student Success and Monitoring Student Success	<b>Administrator's Focus:</b>
3. Social Emotional Learning and Student Wellbeing	<b>Administrator's Focus:</b>
4. Academic Support	<b>Administrator's Focus:</b>
5. Classified Staff Engagement in Student Support	<b>Administrator's Focus:</b>
<b>Administrator's Self Reflection:</b>	
<b>Evaluator's Comments:</b>	

**Goal #4: Fiscal and Resource Management**

<b>Administrator's Goal 4:</b>
<b>Strategies to reach goal:</b>
1. Grant Identification and Implementation
<b>Administrator's Focus:</b>
2. Advocacy for Increased Funding
<b>Administrator's Focus:</b>
3. Identify and Address Immediate and Long-Term Funding Challenges
<b>Administrator's Focus:</b>
4. Organizational Technology
<b>Administrator's Focus:</b>
5. Campus Safety & Security
<b>Administrator's Focus:</b>
<b>Administrator's Self Reflection:</b>
<b>Evaluator's Comments:</b>

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Summary Recommendations:

Summary Commendations:

\_\_\_\_\_  
Evaluator Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Administrator Signature

\_\_\_\_\_  
Date

**DATE:** October 7, 2022  
**TO:** ROP Governing Board  
**FROM:** Blaine Torpey, Superintendent  
**SUBJECT:** Request the Governing Board to approve the Agreement with Bonnie Wills for Restorative Practices Services and Training for the 2022-2023 School Year

## **BACKGROUND**

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Restorative Practices are tools, training and skills used in conflict mediation and resolution. They are informed by restorative justice, which is a culturally responsive and appropriate way to address harm in a community. Restorative practices include processes to address harm such as restorative justice circles and more formal victim-offender dialogues, as well as community building, instructional practices and grading systems.

## **CURRENT SITUATION**

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All organizations experience conflict. It happens between adults, between students and between students and adults. The Eden Area ROP community will benefit from the opportunity to work with Master Restorative Practitioner, Bonnie Wills. Ms. Wills will be able to support staff and students as we work to build a school community of belonging, inclusiveness and equity.

## **RECOMMENDATION**

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It is recommended that the Governing Board approve the agreement with Bonnie Wills for restorative practices services and training for the 2022-2023 school year.

## AGREEMENT FOR SERVICE 2022-2023

26316 Hesperian Blvd., Hayward, CA 94545 | P: (510) 293-2901 | F: P: (510) 293-2927 | [www.edenrop.org](http://www.edenrop.org)

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This agreement for service (this "Agreement") is between the Eden Area ROP (the "Customer") and Bonnie Wills (the "Service Provider") between July 1, 2022 through June 30, 2023

### Background:

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- A. The Customer is of the opinion that the Service Provider has the necessary qualifications, experience, and abilities to provide services to the Customer.
- B. The Service Provider is agreeable to providing such services to the Customer on the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

### Services Provided

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- 1. The Customer hereby agrees to engage the Service Provider to provide the Customer with services (the "Services") consisting of
  - a. Restorative Practices Services and Training

### Term of Agreement

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- 2. The term of this Agreement will begin on July 1, 2022 and will remain in full force and effect until June 30, 2023, subject to earlier termination as provided in this Agreement, with the said term being capable of extension by mutual written agreement of the parties.

### Performance

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- 3. The parties agree to do everything necessary to ensure that the terms of this Agreement take effect.



## Compensation

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4. Eden Area ROP will pay a fee to Bonnie Wills for the Services based on \$175.00 per hour. This fee shall be payable monthly, no later than the last day of the month following the period during which the Services were performed.
5. Service Provider must submit an itemized invoice to Business Services which includes: dates, time, and type of work accomplished.

## Confidentiality

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6. The Service Provider agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any confidential information with respect to the business of the Customer, which the Service Provider has obtained, except as may be necessary or desirable to further the business interests of the Customer. This obligation will survive indefinitely upon termination of this Agreement.

## Non-Competition

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7. Other than with the express written consent of the Customer, which will not be unreasonably withheld, the Service Provider will not, during the continuance of this Agreement, be directly or indirectly involved with a business which is in direct competition with the particular business line of the Customer, divert or attempt to divert from the Customer any business the Customer has enjoyed, solicited, or attempted to solicit, from other individuals or corporations, prior to termination of this Agreement.

## Ownership of Materials

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8. All materials developed, produced, or in the process of being so under this Agreement will be the property of the Customer. The use of the mentioned materials by the Customer will not be restricted in any manner.
9. The Service Provider may retain use of the said materials and will not be responsible for damages resulting from their use for work other than services contracted for in this Agreement.

## Return of Property

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10. Upon the expiration or termination of this Agreement, the Service Provider will return to the Customer any property, documentation, records, or confidential information which is the property of the Customer.

## Assignment

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11. The Service Provider will not voluntarily or by operation of law assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Customer.

## Capacity/Independent Contractor

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12. It is expressly agreed that the Service Provider is acting as an independent contractor and not as an employee in providing the Services under this Agreement. The Service Provider and the Customer acknowledge that this Agreement does not create a partnership or joint venture between them and is exclusively a contract for service.

## Modification of Agreement

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13. Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.

## Notice

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14. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the parties of this Agreement.

## Costs and Legal Expenses

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15. In the event that legal action is brought to enforce or interpret any term of this Agreement, the prevailing party will be entitled to recover, in addition to any other damages or award, all reasonable legal costs and fees associated with the action.

## Time of the Essence

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16. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

## Entire Agreement

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17. It is agreed that there is no representation, warranty, collateral agreement, or condition affecting this Agreement except as expressly provided in this Agreement.

## Limitation of Liability

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18. It is understood and agreed that the Service Provider will have no liability to the Customer or any other party for any loss or damage (whether direct, indirect, or consequential) which may arise from the provision of the Services.

## Indemnification

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19. The Service Provider will indemnify and hold the Customer harmless from any claims against the Customer by any other party, arising directly or indirectly out of the provision of the Services by the Service Provider.

## Inurement

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20. This Agreement will ensure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, successors and permitted assigns.

## Currency

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21. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in United States dollars.

## Titles/Headings

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22. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement.

## Gender

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23. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

## Governing Law

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24. It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of California, without regard to the jurisdiction in which any action or special proceeding may be instituted.

## Severability

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25. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

## Waiver

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26. The waiver by either party of a breach, default, delay, or omission of any of the provisions of this Agreement by the other party will not be construed as a waiver of any subsequent breach of the same or other provisions.

## Additional Provisions

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27. Service Provider is responsible to pay their own taxes. Customer (Eden Area ROP) will issue a 1099 at the end of the year.

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Bonnie Wills, Service Provider

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Date

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Blaine C. Torpey, Eden Area ROP  
Superintendent

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Date